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Date: September 12, 2003

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Direct: _____

Pages: 12

(including cover sheet)

If you received a partial delivery, please call John Alexander at 617-517-5555.

Re: U.S. Serial Number: 10/070,209
Our Ref.: No. 57094 (71526)

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Docket No. 47115 CIP DIV (71526)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: M. Sakanaka et al

Serial No.: 10/070,209

Examiner: P. A. Patten

Filed: July 12, 2002

Group Art Unit: 1654

For: Brain Cell- or Nervo Cell-Protecting Agents Comprising Medicinal Ginseng

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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AMENDMENT TRANSMITTAL

1. Transmitted herewith is a Response to the Restriction Requirement for this application.

STATUS

2. Applicant is
[] a small entity. A statement:
[] is attached.

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

- ☐ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

FACSIMILE

- ☒ transmitted to Technology Center 1600 by facsimile (703-872-9306) to the Patent and Trademark Office.


Signature

Date: September 12, 2003

John B. Alexander, Ph.D.

(type or print name of person certifying)

(Amendment Transmittal—page 1 of 4)

- ☐ was already filed.
☒ other than a small entity.

EXTENSION OF TERM

NOTE: "Extension of Time in Patent Cases (Supplement Amendments) — If a timely and complete response has been filed after a Non-Final Office Action, an extension of time is not required to permit filing and/or entry of an additional amendment after expiration of the shortened statutory period.

If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run." Notice of December 10, 1983 (1061 O.G. 34-35).

NOTE: See 37 C.F.R. § 1.645 for extensions of time in interference proceedings, and 37 C.F.R. § 1.550(c) for extensions of time in reexamination proceedings.

3. The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

(complete (a) or (b), as applicable)

- (a) ☒ Applicant petitions for an extension of time under 37 C.F.R. § 1.136 (fees: 37 C.F.R. § 1.17(a)(1)-(4)) for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input checked="" type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 380.00	\$ 190.00
<input type="checkbox"/> three months	\$ 890.00	\$ 445.00
<input type="checkbox"/> four months	\$ 1,360.00	\$ 680.00

Fee: \$ _____

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☐ An extension for _____ months has already been secured. The fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ _____

OR

- (b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

(Amendment Transmittal—page 2 of 4)

FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. § 1.16(b)-(d)) has been calculated as shown below:

(Col.1)		(Col. 2)	(Col. 3) SMALL ENTITY				OTHER THAN A SMALL ENTITY		
Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Addit. Fee	OR	Rate	Addit. Fee	
Total	Minus	20	=	x \$9 =	\$0		x \$18 =	\$	
Indep.	Minus	3	=	x \$39 =	\$0		x \$78 =	\$	
[] First Presentation of Multiple Dependent Claim				+ \$130 =			+ \$260 = \$		
					Total Addit. Fee	\$ 0.00	OR	Total Addit. Fee	\$

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

WARNING:

"After final rejection or action (§ 1.113) amendments may be made canceling claims or complying with any requirement of form which has been made." 37 C.F.R. § 1.116(a) (emphasis added).

(complete (c) or (d), as applicable)

- (c) [X] No additional fee for claims is required.

OR

- (d) [] Total additional fee for claims required \$ _____

FEE PAYMENT

5. [] Attached is a check in the sum of \$ _____.
 [X] Charge Account No. 04-1105 the sum of \$ 110.00.
 A duplicate of this transmittal is attached.

(Amendment Transmittal—page 3 of 4)

FEE DEFICIENCY

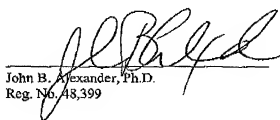
NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, (1065 O.G. 31-33).

6. ☒ [X] If any additional extension and/or fee is required, charge Account No. 04-1105.
AND/OR
☒ [X] If any additional fee for claims is required, charge Account No. 04-1105.

Respectively submitted,

September 12, 2003

By:


John B. Alexander, Ph.D.
Reg. No. 43,399

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Intellectual Property Practice Group of
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347975_1

(Amendment Transmittal—page 4 of 4)

Docket No. 57094 (71526)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: M. Sakanaka et al.

EXAMINER: P. A. Patten

SERIAL NO. 10/070,209

GROUP: 1654

FILED: July 12, 2002

FOR: Brain Cell- or Nerve Cell-Protecting Agents Comprising Medicinal Ginseng

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION REQUIREMENT AND SPECIES ELECTION

Applicants request reconsideration of the above-identified application in view of the following amendments and remarks. Please amend the above-identified application as follows:

Amendments to the Claims begin on page 2 of this paper.

Remarks/Arguments begin on page 3 of this paper.

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Page 2

Amendments To The Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of claims:

1-93. (Cancelled).

94. A method for treating a mammal suffering from or susceptible to a disease causing apoptosis of cells or apoptosis-like cell death, comprising administering to the mammal a composition comprising ginseng, ginseng extracts, ginseng components, ginseng metabolites, or salts thereof.

95. The method of claim 94 wherein the ginseng components, metabolites thereof or salts thereof are crude saponin fractions, non-saponin fractions, purified saponins, constituents of saponin fractions or salts thereof.

96. The method of claim 94 wherein the ginseng or its extracts are red ginseng powder or its extracts.

97-107. (Cancelled).

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REMARKS

The Applicants appreciate the Examiner's thorough examination of the subject application. Applicants request reconsideration of the subject application based on the following remarks.

Claims 94-96 are currently pending in the application. Claims 1-93 and 100-107, which are directed to non-elected subject matter have been cancelled. Claims 97-99 have been cancelled in part because they appear to duplicate the subject matter of claims 94-96. No new matter has been added by the amendments to the specification or the claims.

In response to the Restriction Requirement, Applicants elect Group VII, directed to claims 94-99, as that Group is defined in the Office letter. Applicants expressly reserve the right to pursue the non-elected claims in one or more divisional applications.

Responsive to the species election required by the office action, Applicants select methods of treatment using ginseng components for initial examination. This election is made with the understanding that upon allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim.

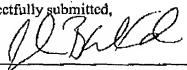
Early consideration and allowance of the application are earnestly solicited.

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SEP 15 2003

September 12, 2003

Respectfully submitted,


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